

December 29, 1936

Mr. J. P. May
Roosevelt, Utah

Dear Sir:

REL: DISTRIBUTION OF WATER ON
INDIAN RESERVATION

I have read your letter dated September 28, 1936, but not mailed until November 5, 1936, with a good deal of interest.

Before studying the question on estoppel and other questions suggested by you, I examined the files in the case in which the Federal Court decree was entered. Judge Johnson appointed water commissioners as you know, who acted for several years and then later modified the decree, striking therefrom the provision as to appointment of commissioners.

There is absolutely no danger of any equitable estoppel operating against the white water users. An estoppel requires several elements that are not and could not be present in this situation. There must be a representation of facts, by conduct or otherwise, a reliance upon such representation and a change of position as a result of such reliance. As far as I can tell, from what information I have before me, none of the elements are present, neither the white users nor the Indians have done anything which would cause a loss of a right by estoppel.

I have recently made a detailed study of the question as to the right of the State Engineer to distribute and otherwise administer water on the Uintah Indian Reservation and have concluded that the state has the right to administer Indian waters as well as other waters. I believe that in the near future the Attorney General will issue an opinion on this question. When he does so, I will be glad to send you a copy.

Yours very truly,

T. H. Humpherys
STATE ENGINEER

BY: _____
Legal Advisor

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